

STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Beverly B. Carney (Collins))	
	Map 043-06-0, Parcel 123.00)	Davidson County
	Commercial Property)	
	Tax Years 2005 & 2006)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$23,000	\$70,300	\$93,300	\$37,320

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on February 14, 2006.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on July 18, 2006, at the Davidson County Property Assessor's Office; present at the hearing were Beverly Carney Collins, the taxpayer who represented herself, Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor and Mr. Doug Ford, also from the Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a commercial duplex located at 623 Anderson Lane in Madison, Tennessee.

The taxpayer, Mrs. Carney (Collins), contends that the property is worth \$80,000 because it does not contain central heat and air, a dishwasher or a trash compactor. Mrs. Carney (Collins) also believes that the duplex needs in excess of \$8,000 in improvements and needs \$20,000 to \$30,000 to repair cracks in the foundation.

The assessor contends that the property should remain valued at \$93,300. In support of this position, three comparable sales properly adjusted to time, age, size and condition were introduced and is marked as exhibit number 3 as part of the record in this cause.

Additionally, using the income approach, the assessor supports his value. The taxpayer's exhibits (collective exhibit #1 & 2) shows that Ms. Carney (Collins) attempted to show the current condition of the property, however, the germane issue is the value of the property as of January 1, 2005.

The basis of valuation as stated in T.C.A. § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value,

for purposes of sale between a willing seller and a willing buyer without consideration of speculative values”

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$93,300 based upon the presumption of correctness attaching to the decision of the Davidson County Board of Equalization. While Mr. Poling figures were higher than the assessed value,¹ the local board’s figures will be used.

Additionally, the taxpayer’s argument for equal treatment is without merit. The case law is replete with cases that essentially hold that it is of no consequence how much or how little your neighbors’ property is valued but being able to demonstrate by competent evidence the fair market value of your own property that is essential in proving the County Boards values are incorrect.

As the Assessment Appeals Commission noted in *Payton and Melissa Goldsmith*, Shelby County, Tax year 2001, in quoting the Tennessee Supreme Court in the case of *Carroll v. Alsup*, 107 Tenn. 257, 64 S.W.193 (1901):

It is no ground for relief to him; nor can any taxpayer be heard to complain of his assessments, when it is below the actual cash value of the property, **on the ground that his neighbors' property is assessed at a less percentage of its true or actual value than his own.** When he comes into court asking relief of his own assessment, he must be able to allege and show that his property is assessed at more than its actual cash value. He may come before an equalizing board, or perhaps before the courts, and show that his neighbors' property is assessed at less than its actual value, and **ask to have it raised to his own**, . . . (emphasis supplied)

In yet another case, the administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et. al.* (Davidson County, Tax Years 1981 and 1982), holds that “as a matter of law property in Tennessee is required to be valued and equalized according to the “Market Value Theory’.” As stated by the Board, the Market Value Theory requires that property “be appraised annually at full market value and **equalized by application of the appropriate appraisal ratio . . .**” *Id.* at 1.(emphasis added)

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

In contending the entire property should be appraised at no more than \$60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be

¹ \$95,600 for the sales comparison approach and \$97,492 using the income approach.

appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more under appraised than average **does not entitle him to similar treatment**. Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not **adequately indicated how the properties compare to his own in all relevant respects**. . . . (emphasis added) Final Decision and Order at 2.

See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were under appraised . . ." Final Decision and Order at 3.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn. App. 1981).

The administrative judge finds that the procedure normally utilized in the sales comparison approach has been summarized in one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm's-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then **adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable**. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.

Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values. [Emphasis supplied] Appraisal Institute, *The Appraisal of Real Estate* at 422 (12th ed. 2001). *Andrew B. & Majorie S. Kjellin*, (Shelby County, 2005)

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005 and 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$23,000	\$70,300	\$93,300	\$37,320

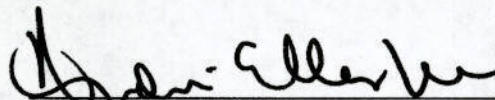
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 16th day of August, 2006.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
STATE BOARD OF EQUALIZATION

c: Beverly B. Carney (Collins)
JoAnn North, Property Assessor